

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY THOMAS WILLS,

Plaintiff,

Case No. 1:12-cv-434

v.

Honorable Paul L. Maloney

MELISSA BARBER et al.,

Defendants.

ORDER

In accordance with the Opinion filed this date:

IT IS ORDERED that Plaintiff's second motion to amend the complaint (docket #41) is **GRANTED IN PART** and **DENIED IN PART**. It is denied to the extent that Plaintiff seeks to add Officer Dreybeck as a party to this action. Otherwise, the second amended complaint (docket #41-1) takes the place of the previously amended complaint.

IT IS FURTHER ORDERED that Plaintiff's motion for reconsideration (docket #42) is **DENIED**.

IT IS FURTHER ORDERED that Defendants Breedlove and Norwood are **DISMISSED WITH PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2), 42 U.S.C. § 1997e(c).

IT IS FURTHER ORDERED that in accordance with Administrative Order No. 03-029, the Clerk shall return to Plaintiff with a copy of this order one copy of the second amended complaint (docket #41-1) and any exhibits.

IT IS FURTHER ORDERED that immediately upon receipt of this order, Plaintiff

shall request that the prison make two copies of the second amended complaint and exhibits for service upon Defendants Barber and Martin. Plaintiff is responsible for the cost of the copies. If Plaintiff does not have sufficient funds to pay for the copies, the Michigan Department of Corrections provides loans for legal copies. *See* Mich. Dep't of Corr., Policy Directive 05.03.116.

IT IS FURTHER ORDERED that within fourteen (14) days of this order, Plaintiff shall file with the Court the requisite number of copies of the second amended complaint and exhibits along with a copy of this order OR an affidavit explaining why Plaintiff is unable to provide the requested copies within the fourteen-day period. Should the Court find that the prison failed to make copies upon Plaintiff's request, the Court will direct the Clerk to make such copies as may be necessary and to charge the Michigan Department of Corrections for the cost of copying at the Court's usual rate of \$.50 per page.

IT IS FURTHER ORDERED that Plaintiff's failure to submit the requested copies within the time provided by the Court or an affidavit explaining why Plaintiff is unable to provide the requested copies may result in the dismissal of his action without prejudice by the Court.

IT IS FURTHER ORDERED that upon receipt of the copies required by this order, the Clerk shall forward the second amended complaint to the U.S. Marshals Service, which is authorized to mail a request for waiver of service to Defendants Barber and Martin in the manner prescribed by Fed. R. Civ. P. 4(d)(2). If waiver of service is unsuccessful, summons shall issue and be forwarded to the U.S. Marshals Service for service under 28 U.S.C. § 1915(d).

IT IS FURTHER ORDERED that Defendants Barber and Martin shall file an appearance of counsel (individual Defendants may appear *pro se* if they do not have counsel) within 21 days of service or, in the case of a waiver of service, 60 days after the waiver of service was sent.

Until so ordered by the Court, no Defendant is required to file an answer or motion in response to the complaint, and no default will be entered for failure to do so. *See* 42 U.S.C. § 1997e(g)(1). Proceedings in this case are governed by the Court's Standard Case Management Order in a Prisoner Civil Rights Case.

Dated: February 19, 2013

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge